

Message Text

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FM SECSTATE WASHDC
TO AMEMBASSY TAIPEI

C O N F I D E N T I A L STATE 174513

EXDIS

E.O. 11652: GDS

TAGS: PEPR, EAID, TW

SUBJECT: SAFED AGREEMENT

REFS: A) TAIPEI 04176; B) TAIPEI 04210

1. GENERALLY, TREATIES AND AGREEMENTS OR OBLIGATIONS UNDER TREATIES AND AGREEMENTS MAY LEGALLY TERMINATE OR BE TERMINATED, DEPENDING ON THE NATURE OF THE TREATIES OR AGREEMENTS, BY SEVERAL DIFFERENT METHODS: (A) NOTICE GIVEN BY A CONTRACTING PARTY PURSUANT TO THE TERMS OF THE TREATY OR AGREEMENT; (B) FULFILLMENT OF THE PROVISIONS OF THE TREATY OR AGREEMENT; (C) EXPIRATION OF THE PERIOD OF TIME FOR WHICH THE TREATY OR AGREEMENT WAS CONCLUDED; (D) EXTINGUISHMENT OF THE PARTIES (IN THE CASE OF BILATERAL TREATIES OR AGREEMENTS) OR THE SUBJECT MATTER OF THE TREATY OR AGREEMENT; (E) AGREEMENT OF THE PARTIES; (F) IMPLICATION AS, FOR EXAMPLE, THE
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CONCLUSION OF A SUBSEQUENT AGREEMENT COVERING THE SAME SUBJECT MATTER OR ONE ENTIRELY INCONSISTENT WITH THE EARLIER TREATY OR AGREEMENT; OR (G) DENUNCIATION BY ONE PARTY AND ACQUIESCENCE BY THE OTHER.

2. THE ORIGINAL SAFED AGREEMENT, AS WELL AS BOTH RENEWALS, PROVIDED FOR TERMINATION ON A SPECIFIC DATE;

IN ADDITION, EACH ALLOWED FOR REVIEW AT TERMINATION OR "AT ANY EARLIER TIME ON 30 DAYS NOTICE BY EITHER GOVERNMENT." WHILE WE COULD ARGUE THAT THIS REVIEW IN EFFECT GRANTED EACH PARTY THE RIGHT TO UNILATERALLY TERMINATE THE AGREEMENT, THE STRONGER POSITION IS THAT THIS PROVISION CREATED A MECHANISM BY WHICH THE AGREEMENT COULD BE AMENDED OR TERMINATED THROUGH MUTUAL CONSENT.

3. WHILE WE THUS RECOGNIZE THAT WE CANNOT PERSUASIVELY CONTEST MOFA'S INTERPRETATION THAT WE DO NOT HAVE THE LEGAL RIGHT TO UNILATERALLY TERMINATE THE SAFED AGREEMENT, OUR DESIRE TO END THE AGREEMENT REMAINS. THIS WISH IS BASED BOTH ON THE FACT THAT THE USG NO LONGER HAS ANY SUBSTANTIVE INVOLVEMENT IN SAFED AND OUR DESIRE TO LOWER THE U.S. PROFILE ON TAIWAN.

4. ADCM SHOULD SEEK APPOINTMENT WITH DIRECTOR WANG AND STATE THAT EMBASSY UNDERSTANDS BUREAUCRATIC PROBLEMS TERMINATION OF SAFED AGREEMENT BRINGS TO GROC. NEVERTHELESS, SINCE OUR TECHNICAL INVOLVEMENT NO LONGER SERVES A USEFUL PURPOSE, WE WISH TO WORK OUT MUTUALLY CONVENIENT TIME FOR ITS TERMINATION PRIOR TO JUNE 30, 1980 EXPIRATION DATE. WE ARE AWARE THAT GROC NEEDS TIME FOR SMOOTH TRANSITION, AND WE WOULD APPRECIATE ITS BEGINNING THIS PROCESS NOW AND INFORMING US OF EARLIEST DATE WHEN TERMINATION WILL BE POSSIBLE.
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5. WHILE GROC MAY DRAG ITS FEET, WE WOULD LIKE TO RECEIVE A COUNTER PROPOSAL. ONCE THIS RESPONSE IS RECEIVED, THERE SHOULD BE SOME LEEWAY FOR NEGOTIATION OF COMPROMISE DATE.

6. REQUEST EMBASSY VIEWS ON EFFECT, IF ANY, ON JCRR NOTIFICATION AND EMBASSY'S PRESENT PLANS FOR PROVIDING THAT NOTIFICATION.
CHRISTOPHER

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